

REMARKS/ARGUMENTS

Claims 51-59, 71-72, 74, 76-83 are in the application. Claims 1-50, 60-70, 73, 75 have been cancelled. There are a total of 20 claims in the application. Claim 51 is independent and all remaining claims are dependent thereon.

Amendments to claim 51 are supported by original claims 73 and 75, which have now been cancelled, and paragraph 0023 of the application as filed. Amendments to claim 79 are supported in paragraph 0019. New claim 81 is supported at paragraph 0022. New claim 82 is supported at paragraph 0020. New claim 83 is supported in paragraph 0019. Applicant submits that no new subject matter is added by way of these claim amendments and new claims.

Applicant would like to begin by thanking Examiners McGowan and Will for the teleconference of September 30, 2008, and for the subsequent Interview Summary. Applicant submits that the present amendments and remarks are consistent with those discussions. Therefore, as set out in the Interview Summary, Applicant submits that amended claim 51 reads over the currently applied art.

Claims 51, 59, 70 and 79 stand rejected under 35 U.S.C. 102(a) as being anticipated by Kovach et al. (6,681,868). Applicant respectfully traverses this rejection and offers the following comments.

The publication date of Kovach et al. is July 31, 2003. The present application claims the benefit of provisional application 60/451,666, filed March 5, 2003. Applicant points out that, although a Cross-Reference to Related Applications does not appear in the publication copy of the instant case, such a reference was properly submitted in the Preliminary Amendment dated November 16, 2004. Since the filing date of Applicant's provisional application pre-dates the publication date of Kovach et al., Applicant submits that the rejection under 35 U.S.C. 102(a) is improper and should be withdrawn.

Nevertheless, as discussed during the interview, Applicant has amended claim 51 to include the subject matter of claim 75 and submits that Kovach et al. fails to disclose all of the currently claimed features. In particular, Kovach et al. fails to disclose "...four or more longitudinally spaced apart rows of laterally spaced apart individual coultter wheel assemblies...". Applicant therefore requests that the rejection be withdrawn.

Claims 51, 52, 59, 68-70 and 72-79 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Dietrich, Jr. et al. (6,896,068) in view of Kovach et al. (6,681,868). Applicant respectfully traverses this rejection and provides the following comments.

Neither Dietrich, Jr. et al. nor Kovach et al. teach or suggest an implement with four or more rows of individual coulter wheel assemblies. The combination of these two references therefore does not provide all of the currently claimed features and it is therefore submitted that the rejection under 37 CFR 103(a) should be withdrawn.

Furthermore, no expectation of success would be provided by such a combination. In connection with the previous office action response dated March 4, 2008, Applicant submitted the Declarations of James F. Boak ("Boak") and Horst G. Bohner ("Bohner"), both of which swore to the "unexpected advantage" and "unique" nature of the apparatus now claimed in claim 51 (see, in particular, Boak, item 11 and Bohner, page 1, Methods). Boak also provides evidence of commercial success (see Boak, item 20). Claims 79 and 81-83 all relate to unexpected advantages recited in the Declarations (see, in particular, Boak items 10, 20 and 17, respectively, and Bohner, page 1, Methods). As pointed out in the Interview Summary, the present amendments to claim 51 allow the Declarations of Boak and Bohner to now be considered. Applicant therefore reiterates its comments with respect to the Declarations made in the office action response dated March 4, 2008, and submits that the Declarations provide compelling evidence of non-obviousness.

During the aforementioned teleconference, it was suggested that an additional search may be required. Applicant points out that all of the features of current claim 51 have been the subject of previous searches. In particular, Applicant points out that the current amendment to "... four or more rows..." was encompassed by previous searches relating to "... three or more rows..." and that all other features of current claim 51 have been present in previous versions of this claim or its dependent claims. Applicant's amendments therefore do not necessitate any further search and allowance of all claims is respectfully requested.

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In view of the above amendment and remarks, reconsideration and allowance of all claims is respectfully requested. In the event any matters remain to be resolved in view of this communication, the Examiner is encouraged to call the undersigned so that a prompt disposition of this application can be achieved. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Appl. No. 10/521,804
Amdt. dated October 21, 2008
Reply to Office Action of May 27, 2008

Respectfully submitted,
BRUNET & CO. LTD.

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